

REMARKS

This responds to the Final Office Action dated March 18, 2010.

Claims 1 and 32 are amended and claims 79-148 are canceled; as a result, claims 1-7, 10-38, 41-78, and 150-152 are pending.

Provisional Obviousness-Type Double Patenting Rejection

Claims 32-34 and 41-78 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-36, 38-74, 76-78, and 96-113 of copending application Serial No. 10/890,825 (as amended November 6, 2009).

Applicant does not admit that the pending claims are obvious in view of Serial No. 10/890,825. Nevertheless, to advance the present application, a Terminal Disclaimer in compliance with 37 C.F.R. § 1.321(b)(iv) is being submitted herewith.

The Rejection of Claims Under § 112

Claims 1-7, 10-38, 41-78, and 150-152 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. The Office Action asserts that it is unclear whether the “one or more implantable leads providing for electrical connections” is separate and distinct from the previously recited electrical wiring of the controller to the gene regulatory signal delivery device.

Applicant respectfully traverses.

The claims clearly indicate that one or more implantable leads provide for electrical connections between the implantable gene regulatory signal delivery device and the implantable CRM device, and that the implantable CRM device includes a controller that is electrically wired to the gene regulatory signal delivery device through the electrical connections.

Therefore, withdrawal of the § 112, second paragraph, rejection is respectfully requested.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone the undersigned at (612) 373-6959 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

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Date June 18, 2010

By / Janet E. Embretson

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 18th day of June, 2010.

Kate Gannon

/ Kate Gannon /

Name

Signature